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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

ENDO INTERNATIONAL PLC, *et al.*,

Debtors.¹

)
) Chapter 11
)
) Case No. 22-22549 (JLG)
)
) (Jointly Administered)
)

**VERIFIED STATEMENT OF THE OFFICIAL COMMITTEE OF
OPIOID CLAIMANTS OF ENDO INTERNATIONAL PLC, *ET AL.*,
PURSUANT TO BANKRUPTCY RULE 2019**

Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Official Committee of Opioid Claimants (the “OCC”) appointed in the chapter 11 cases (the “Chapter 11 Cases”) of Endo International plc and its affiliated debtors-in-possession (the “Debtors”) hereby submits this verified statement (the “Verified Statement”) and in support thereof respectfully states as follows:

1. The Debtors are a specialty pharmaceutical company that has developed, manufactured and sold branded and generic products to customers in a wide range of medical fields

¹ The last four digits of Debtor Endo International plc’s tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://restructuring.ra.kroll.com/Endo>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

since 1997. The Debtors' products have included branded opioid products such as Opana[®] and Opana[®] ER (together, the "Opana Medications") and generic opioid products, including morphine sulfate, oxycodone, hydrocodone and oxycodone hydrochloride products. The Debtors have been named as defendants in over 3,500 lawsuits seeking to hold them liable for their marketing and sale of opioid products, including the Opana Medications. The Debtors removed Opana[®] ER from the market at the request of the United States Food and Drug Administration in 2017, and the Debtors have not sold any Opana Medications since June 2019.² Certain of the Debtors, however, continue to manufacture and sell generic opioid medication.³

2. On August 17, 2022, the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Court. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request has been made for the appointment of a trustee or an examiner in the Chapter 11 Cases.

3. On September 2, 2022, the Office of the United States Trustee for Region 2 appointed seven of the Debtors' opioid claimants to serve as members of the OCC [ECF No. 163]. The OCC currently comprises the following entities and persons: (i) Robert Asbury as Guardian *Ad Litem* for certain NAS Infants (as defined below); (ii) Sabrina Barry; (iii) Blue Cross and Blue Shield Association ("BCBSA"); (iv) Erie County Medical Center Corporation ("ECMCC"); (v) Sean Higginbotham; (vi) Alan MacDonald; and (vii) Michael Masiowski, M.D. (collectively, and in such capacity, the "Members" and each, a "Member"). Each Member of the OCC takes

² Declaration of Mark Bradley In Support of Chapter 11 Petitions and First Day Papers, dated August 17, 2022 [ECF No. 38] ¶ 50.

³ *Id.*

seriously the OCC's role as a fiduciary for the interests of opioid claimants seeking compensation for opioid-related losses and injuries caused by the Debtors.

Composition of the Official Committee of Opioid Claimants

4. The OCC Members include the following claimants asserting claims arising from the Debtors' actions:

- **Robert Asbury** serves as a Guardian *Ad Litem* representing two children afflicted with Neonatal Abstinence Syndrome ("NAS") who are plaintiffs in a Tennessee lawsuit seeking damages under Tennessee's Drug Dealer Liability Act from certain of the Debtors.⁴ Infants who are exposed to opioids in utero may be born dependent on opioids and diagnosed with NAS ("NAS Infants"). NAS Infants typically require extended stays in Neonatal Intensive Care Units where they are inconsolable, shake and cry uncontrollably and suffer a myriad of physical issues. During hospital stays, they often must be weaned from their opioid dependence with controlled doses of morphine. During childhood, these children typically suffer from a combination of significant learning disabilities, attention deficit issues, oppositional defiance issues and other manifestations of their NAS diagnosis. Longer-term, children diagnosed with NAS are likely to continue to suffer from these same impairments throughout their lives, and face a heightened risk of substance addiction.
- **Sabrina Barry** is a mother and caregiver of two children exposed to opioids in utero. In 2011, Ms. Barry suffered a car accident. When she was admitted to the hospital for treatment for her injuries, she learned she was pregnant. Without receiving information from her doctors regarding the risks, Ms. Barry was prescribed opioids, including Percocet, throughout her entire pregnancy and for a year and a half after she gave birth to her firstborn son. Ms. Barry became opioid dependent and eventually entered medication-assisted treatment. As a result of his opioid exposure in utero, Ms. Barry's eldest son has been diagnosed with autism, speech delays and sleep disorders. Her youngest son, who was also exposed to opioids in utero, was born in 2016 and was treated with morphine for withdrawal symptoms after birth. He continues to experience speech delays, allergies and asthma. Ms. Barry's unliquidated claims are based on theories of public nuisance, negligence, breach of implied warranty, breach of implied warranty for fitness of a particular purpose, fraudulent misrepresentation, fraudulent concealment, negligent misrepresentation, strict products liability and products liability. Ms. Barry's unliquidated claims comprise personal injury and punitive damages.

⁴ *Baby Doe #1 and #2 v. Endo, et al.*, Case No. 16596 (Tenn. Cir. Ct. Campbell Cnty.).

- **BCBSA** is a national association of 34 independent, community-based Blue Cross and Blue Shield companies (the “BCBS Companies”). The BCBS Companies provide healthcare coverage to one-third of all Americans, including approximately 5.5 million federal employees and annuitants who are members of a health plan established under the Federal Employee Health Benefits Act that BCBSA administers. BCBSA’s claims arise from payments of excessive amounts for prescription medications used by members of private Medicare Part C and Medicaid plans, Federal Employee Health Benefits Act plans and coverage and administrative services for fully insured and self-funded employer health plans under ERISA. BCBSA’s claims also arise from the downstream effects of these opioid prescriptions, including paying for the treatment—emergency treatment and protracted rehabilitation—of current and former members who have suffered the effects of improper opioid prescriptions.
- **ECMCC** is one of Western New York’s leading hospitals, serving Western New York and its surrounding areas. ECMCC specializes in trauma care, transplantation and kidney care, oncology and behavioral health, including the care and treatment of those afflicted with opioid addiction. ECMCC has been at the forefront of addressing the opioid crisis in Western New York, and has borne the brunt of uncompensated and undercompensated care for harm inflicted by the Debtors. Not only is ECMCC a leader in the treatment and care of those afflicted with opioid addiction, but it also is at the cutting-edge of researching, strategizing and developing new protocols and remedies to fight the opioid crisis to ease the burdens of those affected most. Before the Debtors commenced the Chapter 11 Cases, ECMCC asserted claims for these harms in litigation under New York’s Consumer Protection from Deceptive Acts and Practices statute, as well as under theories of negligence, nuisance, unjust enrichment, fraud and deceit, fraudulent concealment, civil conspiracy and concert of action.⁵ ECMCC’s damages include: (i) the cost of providing health care to patients with opioid-related conditions; and (ii) the cost of operational expenses incurred to respond to conditions created by the opioid epidemic.
- **Sean Higginbotham** and his late wife, Lisa, met in Fort Worth, Texas and moved to rural Oklahoma to raise their growing family. However, a hit-and-run accident left Lisa with severe back problems and intense chronic pain. A number of surgeries and years of use of prescription opioids—including opioids manufactured by certain of the Debtors—did little to solve these issues. By 2012, Lisa had a noticeable change in her personality, having become increasingly reserved and refusing to leave her home. Lisa’s opioid dependence symptoms worsened until her children found her deceased due to an opioid overdose in 2018. Mr. Higginbotham’s claims are unliquidated and, when filed, will include, among others, a claim for wrongful death and a survival action.

⁵ *Erie Cnty. Med. Ctr. Corp., et al. v. Teva Pharm. USA, Inc., et al.*, Case No. 1:21-op-45116 (DAP) (N.D. Ohio). ECMCC’s suit has been consolidated in the multi-district opioid litigation currently pending in the Northern District of Ohio.

- **Alan MacDonald** was prescribed opioids—including oxycodone manufactured by certain of the Debtors—to treat his pain after suffering an injury. Soon thereafter, his growing dependence on opioids affected his life and his family. Mr. MacDonald lost his job, suffered a divorce from his wife and lost custody of his two daughters. He subsequently pursued rehabilitation seeking the help he desperately needed, however, he needed more time than he had to recover from his dependence on opioids. After struggling with recovery for many years, Mr. MacDonald now attends and hosts AA meetings to help others who have also suffered from opioid addiction. Mr. MacDonald’s claims are unliquidated and, when filed, will include a claim for personal injury damages.
- **Michael Masiowski, M.D.** is an independent emergency room physician who has provided emergency opioid treatment services to patients who were uninsured, indigent or otherwise eligible for services through programs such as Medicaid. Dr. Masiowski is the putative class representative for a class of emergency room physicians who have been forced to provide an inordinate amount of emergency room services related to the “opioid epidemic,” either for no compensation or for compensation substantially below market rates.⁶ Other damages relate to unreimbursed expenses incurred. Dr. Masiowski’s putative class action against certain of the Debtors, along with other opioid manufacturers, seeks damages for these harms based on RICO violations, various forms of negligence and fraud.

5. In accordance with Bankruptcy Rule 2019, attached hereto as **Exhibit A** is a list of the names and addresses of, and the nature and amount of all disclosable economic interests held by, each OCC Member in relation to the Debtors. The statements in paragraph four, and the claims and claim amounts set forth in this Verified Statement and on **Exhibit A**, have been provided by the applicable OCC Member and, by filing this Verified Statement, the OCC makes no representation with respect to the statements in paragraph four, nor with respect to the amount, allowance, validity, secured status or priority of such claims and reserves all rights with respect thereto.

6. Nothing contained in this Verified Statement (or **Exhibit A** hereto) should be construed as a limitation upon, or waiver of any OCC Member’s rights to assert, file and/or amend

⁶ *Michael Masiowski, M.D. v. AmerisourceBergen Drug Corporation*, Case No. 2:18-cv-02080-MDL (D.S.C.).

its claim(s) in accordance with applicable law and any orders entered in the Chapter 11 Cases establishing procedures for filing proofs of claim.

7. The OCC reserves the right to amend or supplement this Verified Statement in accordance with the requirements set forth in Bankruptcy Rule 2019.

Dated: September 27, 2022

Respectfully submitted,

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Exhibit A

Name	Address	Nature and Amount of Disclosable Economic Interests¹
Robert Asbury, as Guardian <i>Ad Litem</i> for certain NAS Infants	567 Main Street Jacksboro, TN 37757	Unliquidated unsecured claim on the basis of, among other things, personal injury of each NAS victim.
Sabrina Barry	16 Bowstring Way Marlborough, MA 01752	Unliquidated unsecured claim on the basis of, among other things, personal injury of herself and her two children, who suffer the long term effects of NAS.
Blue Cross and Blue Shield Association	1310 G Street NW Washington, D.C. 20005	Unliquidated unsecured claim on the basis of, among other things, covering treatment for opioid use disorder.
Erie County Medical Center Corporation	462 Grider Street Buffalo, NY 14215	Unliquidated unsecured claims.
Sean Higginbotham	2466 E 2030 Rd. Hugo, OK 74743	Unliquidated unsecured claim on the basis of, among other things, wrongful death.
Alan MacDonald	53 Taunton Ave. Rockland, MA 02370	Unliquidated unsecured claim on the basis of, among other things, personal injury, including addiction, lost wages and emotional injury.
Michael Masiowski, M.D.	626 NE 1st Street Gainesville, FL 32601	Unliquidated unsecured claim on the basis of, among other things, RICO violations, various forms of negligence and fraud.

¹ To the best of counsel's knowledge, the information included herein is accurate as of September 27, 2022.